



{In Archive} EPA Review of Pre-Draft NPDES Small MS4 General Permit

Brian Bell to: Duane.Duncanson

05/04/2011 08:05 AM

Cc: Bob Newport, Stephen Jann, Kevin Pierard

From: Brian Bell/R5/USEPA/US
To: Duane.Duncanson@state.mn.us,
Cc: Bob Newport/R5/USEPA/US@EPA, Stephen Jann/R5/USEPA/US@EPA, Kevin Pierard/R5/USEPA/US@EPA
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Hi Duane

Thank you for all your work on reissuance of the Small MS4 stormwater general permit. We will be sending an e-mail to Don letting him know we have reviewed the sections he asked EPA to review and we did not identify any issues that would cause us to object to the permit. We did however note a few comments and suggestions that we wanted to send to you.

Our comments and edits are shown in the attached file. In particular we think it is important:

(1) To make it clear that the local programs for construction and post-construction need to cover (at least) all sites where ≥ 1 acre is disturbed. This could go in the definitions section or be included as part of the minimum control measures.

(2) To make sure the requirements for the construction minimum control measure address all the provisions of the new Federal effluent guidelines for stormwater discharges from construction sites. The second file attached is language we had put together that pulls out key items in the effluent guidelines. The draft Federal construction general permit (see <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>) is another place where you can look at sample language implementing the effluent guidelines. You are probably aware EPA has stayed the provision of the effluent guidelines that included a numeric effluent limit for turbidity. At some point EPA will be proposing a new effluent limit (higher than the 280 NTUs that was in the December 2009 rule). MN may have the MS4 permit reissued before a new effluent limit for turbidity is finalized. If the new numeric limit does get finalized this year, we will need to discuss what that means for this permit.

In addition to the comments shown on the attached file, we circulated part of the draft permit to our compliance and enforcement staff. They had some suggestions aimed at increasing the enforceability of the permit. These suggestions are pasted in below. These are generally consistent in concept with the MS4 permit improvement guide that EPA released a while back.

Thank you again for all your excellent work on this permit. If you have any questions about any of our comments or suggestions please let me know or Bob Newport.

Brian Bell
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DRAFT MS4GP FOR EPA REVIEW 4_29_11.doc MN Comments - Construction MCM - Effluent Guidelines.docx

Suggestions for Increasing the Enforceability of the Draft MS4 Permit

1. Under III.C.1., we recommend revising the first sentence to require a "written" Enforcement Response Procedure.
2. Under III.C.1, we recommend revising the last sentence to read something like "The ERP shall describe procedures and circumstances for the implementation of the following types of enforcement tools along with time-frames for escalation of enforcement for continuing violators."
3. Under III.C.1.c, we recommend changing the "one" in the first sentence to "at least two." Ideally, at a minimum, they would have the option to do at least stop work orders (number 2) and withholding of plan approvals (number 3). These are both very effective.
4. Under III.C.2.e, we recommend adding "and the date of the enforcement response."

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From:	"Jakes, Donald (MPCA)" <donald.jakes@state.mn.us>
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Date:	04/21/2011 12:44 PM
Subject:	FW: EPA review of MS4 General Permit

RE: Request for EPA Review of Minnesota MS4 General Permit

The purpose of this e-mail is to request EPA Region 5's limited review and preliminary approval of Minnesota's draft revised National Pollutant Discharge Elimination System/State Disposal System Small Municipal Separate Storm Sewer System (MS4) General Permit (GP). The Minnesota Pollution Control Agency (MPCA) is preparing for public notice of the MS4 GP in late May 2011; we are working toward reissuance of this permit by late 2011 or early 2012. We have learned from past experience that we need to allow adequate time for preparing our responses to comments, and addressing possible contested case hearing request(s), in addition to bringing the proposed MS4 GP before the MPCA Citizens Board for final approval.

As Mary Lynn, our stormwater program coordinator, discussed with Brian Bell of your staff earlier this week, there are specific permit parts where the MPCA has made larger scale revisions to the permit. Therefore, before we place the draft MS4 GP on public notice, we would like to get your comments on these permit parts (identified below), and to know whether these parts are approvable by EPA based on conformance with federal statute and rule.

PART III.C SWMP – Enforcement Response Procedure

PART III.E.3 SWMP – MCM, Illicit Discharge Detection and Elimination

PART III.E.5 SWMP – MCM, Post Construction Stormwater Management

APPENDIX A Requirements for Discharges to Impaired Waters with a Total Maximum Daily Load

Also, though not included under the federal stormwater regulatory program for MS4s, the GP also includes a new Appendix B, Requirements for Chemical Treatment of Stormwater for Phosphorus Removal. We are not requesting your specific review/comment on Appendix B, only noting it as you may be interested in these specific requirements.

We would appreciate your review of the attached permit, with your written response by May 5, 2011. Also, it would be very helpful to us if you have any "must-do" comments, that these are clearly identified in your response. Please don't hesitate to contact staff identified below for whatever questions you may have as you review the draft permit.

Thank you in advance for your timely response. Should you have any questions, please contact Duane Duncanson,